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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,504	01/10/2002	Giuseppe Iori	043001/012	9174

7590 02/19/2004  
STROOCK & STROOCK & LAVAN LLP  
180 Maiden Lane  
New York, NY 10038

EXAMINER

STULTZ, JESSICA T

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 02/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/043,504	Applicant(s) IORI ET AL.	
	Examiner Jessica T Stultz	Art Unit 2873	

-- Th MAILING DATE of this communication appears on th cover sh t with the correspond nce address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 10-27, 30-31, and 35-39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 and 29 is/are allowed.
- 6) ☒ Claim(s) 28 and 32-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 33 is objected to because of the following informalities: the claim needs to end in a period i.e. "of the wearer" should be "of the wearer.". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Pang et al.

Regarding claims 32-33, Pang et al discloses a lens adapted to be worn by a wearer, the lens comprising at least two zones with differently colored reflection (Column 3, lines 17-58, wherein the optical element "20" appears as a multi-colored "mirror" when viewed from the front, due to the coatings "24" and "22", Figure 3), one of which is gradiently reflective, when observed from the side of the lens opposed to the eyes of the wearer (Column 3, lines 17-58, wherein the lens is "20", the gradient dielectric layer is "24", Figure 3).

Regarding claim 34, Pang et al discloses a lens comprising at least one dielectric layer applied in a gradient manner (Column 3, lines 17-58, wherein the lens is "20", the gradient dielectric layer is "24", Figure 3).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 28 is rejected under 35 U.S.C. 102(e) as being anticipated by Toyoshima et al.

Regarding claim 28, Toyoshima et al discloses a lens (Sections 24-31, 60, and 97-98, wherein the lens array "26" is attached to the optical filter "23", Figure 8) comprising at least one dielectric layer comprising a high index dielectric material deposited in a uniform thickness (Sections 64 and 66, wherein the high index dielectric material is thin film "24", made of titanium dioxide i.e. a high index dielectric material, Section 64, another high index layer with uniform thickness is one of the top 2 layers of filter "23" shown to have uniform thicknesses in Figures 2-3, and filter "23" comprises alternating high and low index dielectric layers; therefore at least one of these layers is made of a high index material) and at least one dielectric layer comprising a low index dielectric material deposited in a gradient thickness (Sections 60-64, wherein the bottom two layers of filter "23" closest to plate "22" have gradient thicknesses, as shown in Figures 2-3, and filter "23" comprises alternating high and low index dielectric layers; therefore at least one of these layers is made of a low index material).

#### ***Allowable Subject Matter***

Claim 1-9 and 29 are allowed.

#### ***Response to Arguments***

Applicant's arguments, see Response, filed November 18, 2003, with respect to the rejection(s) of claim(s) 1-9, 28-29, and 32-34 under Arden et al in view of Challener et al have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. The Examiner's basis for allowability of claims 1-9 and 29 is the same as those set forth within that

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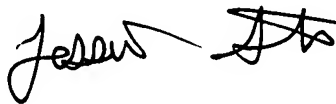
Response. However, upon further consideration, a new ground(s) of rejection for claims 28 and 32-34 is made in view of Pang et al and Toyoshima et al.

***Conclusion***

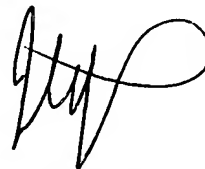
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 703-308-4883. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Jessica Stultz  
Patent Examiner  
AU 2873  
February 2, 2004



JORDAN SCHWARTZ  
PRIMARY EXAMINER